

U.S. Serial No.: 09/811,702

REMARKS

The Office action appears to allege that Applicant's previous response was insufficient and that, even though the Examiner agreed to withdraw the rejection during an interview, additional arguments should have been presented. The underlying concern of the Examiner is unclear. The response was filed one day after the agreement was made by the Examiner in the interview and it seemed clear at the time that there was no dispute about the allowability of the claims visa vis the McMullan and Jung references. Further, Applicant's arguments, of course, do not change the disclosure of the references upon which the rejection was based. Hence, a response which did not re-explain, one day later, what the references themselves disclose seemed respectful and appropriate. To the extent that the Examiner viewed the response otherwise, Applicant respectfully regrets such miscommunication. Unfortunately, it now appears that the Examiner has changed his position on the applicability of the combination of McMullan Jr. and Jung to the pending claims.

I. Introduction

Claims 1, 4, 5, 8, 9, 12 and 13 are pending in the above application.

The drawings stand objected to for containing a reference numeral 410 which was not discussed in the specification.

Claims 4, 8 and 12 stand rejected under 35 U.S.C. § 112 ¶ 2.

Claims 1, 4, 5, 8, 9, 12 and 13 stand rejected under 35 U.S.C. § 103.

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II. Amendments

The specification has been amended to correspond with the numbering of the steps used in Figure 4. The amendment to the specification corrects an omission of reference numeral 410 and corrects the discussion of reference numerals 408 and 409. The corrections made by the amendment to the specification are believed to be clerical and would be readily appreciated as being appropriate by one of skill in the art. The amendment to the specification is believed to fully address the objection to the drawings, rendering it moot.

Claims 4, 8 and 12 have been amended to correct their dependency status on their respective independent claims. The amendment to these claims is believed to cure the issues that gave rise to the rejection under 35 U.S.C. § 112 ¶ 2 without altering the scope of the claims.

No new matter has been added.

III. Rejection Under Prior Art

Claims 1, 4, 5, 8, 9, 12 and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over McMullan Jr. (U.S. Pat. 5,251,324) in view of Jung (6,678,893).

Neither McMullan Jr., Jung, taken alone or in combination, disclose or suggest all of the claimed limitations of any of independent claims 1, 5 and 9. McMullan discloses a set top box which can support pay per view impulse purchasing (IPPV) by an upstream communication to the CATV headend. McMullan, col. 11: 7-68. McMullan discloses that "upon completion of transmission, microprocessor 504 also switches the RF circuitry off, thus reducing the noise output of the module and reducing the overall power

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demand.” However, as the Office action appears to acknowledge (Office action, pg. 4), McMullan does not disclose a CPLD which generates an amplifier switch signal for connecting the upstream amplifier to an RF tuner for transmission of the upstream data signal to the headend, and which generates an amplifier control signal for powering on and off said upstream amplifier, wherein the CPLD generates the amplifier switch signal after the amplifier control signal is generated, thereby stabilizing said upstream amplifier. Jung also does not disclose such feature.

Jung discloses a bidirectional trunk amplifier which uses an upstream pilot signal when requested by the headend. Jung, abs.; col. 4: 55-60. Jung does not disclose or suggest to turn off an amplifier at all, let alone the upstream amplifier. In fact, as Jung primarily uses a bidirectional amplifier, turning off the bidirectional amplifier would also likely inhibit receipt of downstream communications, rendering it impossible for the “request” for an upstream pilot signal from the headend to be received by CPU 609 in the system of Jung. Jung; col. 4: 48 through col. 5: 17. In any case, Jung’s discussion of when to generate an upstream pilot signal has no bearing on when to turn on or off the amplifier.

Accordingly, as neither McMullan Jr. nor Jung, taken alone or in combination, disclose or suggest all of the limitations of independent claims 1, 5 and 9, the combination of McMullan Jr. and Jung does not render those claims, nor claims, 4, 8 and 12-13 which depend on claims 1, 5 and 9, respectively, unpatentable.

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IV. Conclusion

Having fully responded to the Office action, the application is believed to be in condition for allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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